

AMENDED IN SENATE JANUARY 15, 2010

**SENATE BILL**

**No. 414**

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**Introduced by Senator Correa**

February 26, 2009

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An act to amend Sections 31520.1, 31520.2, 31520.3, and 31520.5 of, to add Section 31523.1 to, and to repeal and add Section 31523 of, the Government Code, relating to county retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 414, as amended, Correa. County employee retirement: boards.

(1) The County Employees Retirement Law of 1937 sets forth the membership composition for boards of retirement, as specified. Under that law, the retirement board in specified counties is comprised of 9 members and an alternate member who is the candidate for the 7th member from the group of safety members, under specified provisions, that is not represented by a board member who received the highest number of votes for all candidates in that group, except as specified. The alternate member has, unless prohibited by a resolution or regulation of the board, the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, and 8th member and the right to hold positions on committees of the board independent of the 2nd, 3rd, 7th, or 8th member and to participate in the deliberations of the board or its committees, as specified.

This bill would delete the authority of the board to prohibit, by a resolution or regulation of the board, a member from having the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, or 8th member, or from holding positions on committees of the board, and participating in board or committee deliberations, as described above. The bill would direct the board of supervisors to hold

an election to fill a vacancy for the duration of the current term, except as specified, ~~at the earliest possible date~~ *within 90 days of the date the vacancy occurs* if there is a vacancy in the 2nd, 3rd, 7th, 8th, or alternate 7th member positions. It would limit candidacy to the 7th member and alternate member positions, as specified. The bill would require the board of supervisors to forego an election in specified circumstances when there is only one candidate. The bill would also make various changes in terminology and delete obsolete references.

(2) Existing law prescribes the manner of appointing an alternate retired member to the office of the 8th member of the board of retirement. If there is a vacancy with respect to the 8th member, existing law requires that the alternate retired member fill the vacancy until a successor qualifies. Existing law authorizes the alternate retired member to hold positions on committees of the board independent of the 8th member and to participate in the deliberations of the board or its committees regardless of whether the 8th member is present, unless prohibited by resolution or regulation of the board.

This bill would instead require the board of retirement to, by majority vote, appoint a replacement alternate member, in the same manner as prescribed for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current member. The alternate retired member would have the same rights, privileges, responsibilities, and access to closed sessions as the 8th member. The bill would also delete the authority of the board to prohibit the alternate retired member from holding positions on committees of the board or participating in the deliberations of the board or its committees, as described above. The bill would also make changes in terminology.

(3) Existing law permits the board of supervisors in a county in which the assets of the retirement system exceed \$800,000,000 to establish a board of investments, to consist of 9 members of specified classifications, which is responsible for the investments of the retirement system. Existing law prescribes the terms for the members of the board of investments.

This bill would prescribe a process for filling vacancies in specified positions on a board of investments, as described above. The bill would require the board of investments to hold an election to fill ~~those vacancies at the earliest possible date~~ *a vacancy within 90 days of the date the vacancy occurs*, with a replacement member to serve for the duration of the current term, unless the remaining portion is 6 months

or less, in which case concurrent elections would be authorized to be held for the vacant term position and the succeeding term position. The bill would require the board of supervisors to forego an election in specified circumstances when there is only one candidate. The bill would also delete obsolete references and establish the initial term of a person appointed as a 9th member.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 31520.1 of the Government Code is  
2 amended to read:  
3 31520.1. (a) In any county subject to Articles 6.8 (commencing  
4 with Section 31639) and 7.5 (commencing with Section 31662.2),  
5 the board of retirement shall consist of nine members and one  
6 alternate, one of whom shall be the county treasurer. The second  
7 and third members of the board shall be members of the  
8 association, other than safety members, elected by those members  
9 within 30 days after the retirement system becomes operative in  
10 a manner determined by the board of supervisors. The fourth, fifth,  
11 sixth, and ninth members shall be qualified electors of the county  
12 who are not connected with the county government in any capacity,  
13 except one may be a supervisor, and shall be appointed by the  
14 board of supervisors. A supervisor appointed as a member of the  
15 retirement board may not serve beyond his or her term of office  
16 as supervisor. The seventh member shall be a safety member of  
17 the association elected by the safety members. The eighth member  
18 shall be a retired member elected by the retired members of the  
19 association in a manner to be determined by the board of  
20 supervisors. The alternate member shall be that candidate, if any,  
21 for the seventh member from the group under Section 31470.2 or  
22 31470.4, or any other eligible safety member in a county if there  
23 is no eligible candidate from the groups under Sections 31470.2  
24 and 31470.4, which is not represented by a board member who  
25 received the highest number of votes of all candidates in that group,  
26 and shall be referred to as the alternate seventh member. If there  
27 is no eligible candidate there may not be an alternate seventh  
28 member. The first person chosen as the second and fourth members  
29 shall serve for a term of two years beginning with the date the

1 system becomes operative, the third and fifth members shall serve  
2 for a term of three years beginning with that date, and the sixth,  
3 seventh and alternate seventh members shall serve for a term of  
4 two years beginning on the date on which a retirement system  
5 established by this chapter becomes operative. The eighth and  
6 ninth members shall take office as soon as practicable for an initial  
7 term to expire concurrent with the expiration of the longest  
8 remaining term of an elected member. Thereafter, the terms of  
9 office of the elected, appointed, and alternate seventh members  
10 are three years, except as provided in Section 31523.

11 (b) The alternate seventh member provided for by this section  
12 shall vote as a member of the board only if the second, third,  
13 seventh, or eighth member is absent from a board meeting for any  
14 cause, or if there is a vacancy with respect to the second, third,  
15 seventh, or eighth member, the alternate seventh member shall fill  
16 the vacancy until a successor qualifies. The alternate seventh  
17 member shall sit on the board in place of the seventh member if a  
18 member of the same service is before the board for determination  
19 of his or her retirement.

20 (c) The alternate seventh member shall be entitled to both of  
21 the following:

22 (1) The alternate seventh member shall have the same rights,  
23 privileges, responsibilities, and access to closed sessions as the  
24 second, third, seventh, and eighth member.

25 (2) The alternate seventh member may hold positions on  
26 committees of the board independent of the second, third, seventh,  
27 or eighth member and may participate in the deliberations of the  
28 board or its committees whether or not the second, third, seventh,  
29 or eighth member is present.

30 SEC. 2. Section 31520.2 of the Government Code is amended  
31 to read:

32 31520.2. (a) In any county in which the assets of the retirement  
33 system exceed eight hundred million dollars (\$800,000,000), the  
34 board of supervisors may, by resolution, establish a board of  
35 investments. The board shall consist of nine members, one of  
36 whom shall be the county treasurer. The second and third members  
37 shall be general members of the association elected by the general  
38 membership of the association for a three-year term. The fourth  
39 member shall be a safety member elected by the safety membership  
40 of the association for a three-year term. The eighth member shall

1 be a retired member of the association elected by the retired  
2 membership of the association for a three-year term. The fifth,  
3 sixth, seventh, and ninth members shall be qualified electors of  
4 the county who are not connected with county government in any  
5 capacity, and shall be appointed by the board of supervisors. They  
6 shall also have had significant experience in institutional investing,  
7 either as investment officer of a bank, or trust company; or as  
8 investment officer of an insurance company, or in an active, or  
9 advisory, capacity as to investments of institutional or endowment  
10 funds. The first person chosen as a fifth, sixth, or seventh member,  
11 shall serve for a three-year term, the second person chosen shall  
12 serve a four-year term, and the third person chosen shall serve a  
13 two-year term. The first person appointed as the ninth member  
14 shall serve a one-year term. Thereafter, all terms of all appointed  
15 members shall be three years.

16 (b) The board of investment shall be responsible for all  
17 investments of the retirement system.

18 SEC. 3. Section 31520.3 of the Government Code is amended  
19 to read:

20 31520.3. (a) Notwithstanding Section 31520.1, the board of  
21 retirement of a county of the 16th class, as defined by Sections  
22 28020 and 28037, as amended by Chapter 1204 of the Statutes of  
23 1971, may, by majority vote, appoint, from a list of nominees  
24 submitted by an organization consisting solely of retired members,  
25 an alternate retired member to the office of the eighth member,  
26 who shall serve until the expiration of the current term of the  
27 current eighth member and thereafter the alternate retired member  
28 shall be elected by the retired members of the association in the  
29 same manner and at the same time as the eighth member is elected.  
30 The term of office of the alternate retired member shall run  
31 concurrently with the term of office of the eighth member. The  
32 alternate retired member shall vote as a member of the board only  
33 in the event the eighth member is absent from a board meeting for  
34 any cause. If there is a vacancy with respect to the eighth member,  
35 the alternate retired member shall fill that vacancy for the  
36 remainder of the eighth member's term of office. The alternative  
37 retired member shall be entitled to the same rights and privileges  
38 and shall have the same responsibilities and access to closed  
39 sessions as the eighth member. The alternative retired member  
40 may hold positions on committees of the board independent of the

1 eighth member and may participate in the deliberations of the  
2 board or its committees whether or not the eighth member is  
3 present.

4 The alternate retired member shall be entitled to the same  
5 compensation as the eighth member for attending a meeting,  
6 pursuant to Section 31521, whether or not the eighth member is  
7 in attendance at those meetings. In the event that this section is  
8 made applicable in any county, by the appointment of an alternate  
9 eighth member, the alternate seventh member shall not sit and act  
10 for the eighth member, except as described in subdivision (b).

11 (b) If both the eighth member and the alternate retired member  
12 are not attending a meeting, the alternate seventh member may sit  
13 and act for the eighth member as described in Section 31520.1.

14 SEC. 4. Section 31520.5 of the Government Code is amended  
15 to read:

16 31520.5. (a) Notwithstanding Section 31520.1, in any county  
17 subject to Articles 6.8 (commencing with Section 31639) and 7.5  
18 (commencing with Section 31662), the board of retirement may,  
19 by majority vote, appoint, from a list of nominees submitted by a  
20 qualified retiree organization, an alternate retired member to the  
21 office of the eighth member, who shall serve until the expiration  
22 of the current term of the current eighth member. Thereafter, the  
23 alternate retired member shall be elected separately by the retired  
24 members of the association in the same manner and at the same  
25 time as the eighth member is elected. An organization shall be  
26 deemed to be a “qualified retiree organization” for purposes of  
27 this subdivision if a majority of the members of the organization  
28 are retired members of the system.

29 (b) The term of office of the alternate retired member shall run  
30 concurrently with the term of office of the eighth member. The  
31 alternate retired member shall vote as a member of the board only  
32 in the event the eighth member is absent from a board meeting for  
33 any cause. If there is a vacancy with respect to the eighth member,  
34 the alternate retired member shall fill that vacancy for the  
35 remainder of the eighth member’s term of office. The alternate  
36 retired member shall be entitled to the same rights and privileges  
37 and shall have the same responsibilities and access to closed  
38 sessions as the eighth member.

39 (c) The alternate retired member may hold positions on  
40 committees of the board independent of the eighth member and

1 may participate in the deliberations of the board or its committees  
2 whether or not the eighth member is present.

3 (d) The alternate retired member shall be entitled to the same  
4 compensation as the eighth member for attending a meeting,  
5 pursuant to Sections 31521 and 31521.1, whether or not the eighth  
6 member is in attendance at those meetings.

7 (e) (1) If this section is made applicable in any county, by the  
8 appointment of an alternate eighth member, the alternate seventh  
9 member shall not sit and act for the eighth member, except as  
10 described in paragraph (2).

11 (2) If both the eighth member and the alternate retired member  
12 are not attending a meeting, the alternate seventh member may sit  
13 and act for the eighth member as described in Section 31520.1.

14 SEC. 5. Section 31523 of the Government Code is repealed.

15 SEC. 6. Section 31523 is added to the Government Code, to  
16 read:

17 31523. (a) In the event of a vacancy in the second, third,  
18 seventh, eighth, or alternate seventh member position on the board  
19 of retirement, the board shall cause an election to fill the vacancy  
20 to be held ~~at the earliest possible date~~ *within 90 days of the date*  
21 *the vacancy occurs*, except as provided in Sections 31520.3 and  
22 31520.5. The vacancy in the second, third, or eighth member  
23 position on the board of retirement shall be filled for the duration  
24 of the current term except that, if the remaining portion of the  
25 current term is six months or less on the date of the election,  
26 concurrent elections may be held to fill the vacancy for the  
27 remainder of the current term and to fill the position for the  
28 succeeding term. With respect to a vacancy in the seventh member  
29 position, candidates shall be a safety member from a group which  
30 is not represented by an incumbent alternate seventh member. With  
31 respect to the alternate seventh member position, the candidates  
32 shall be limited to the group under Sections 31470.2 or 31470.4,  
33 or any other eligible safety member in a county if there is no  
34 eligible candidate from the groups under Sections 31470.2 and  
35 31470.4 that is not represented by an incumbent seventh board  
36 member. The successful candidate shall serve for the duration of  
37 the current term.

38 (b) If there is a vacancy with respect to the alternate retired  
39 member, the board of retirement shall, by majority vote, appoint  
40 a replacement alternate member in the same manner as prescribed

1 in Sections 31520.3 and 31520.5 for the initial appointment of an  
2 alternate retired member, who shall serve until the expiration of  
3 the current term of the current eighth member.

4 (c) If an election has been called on the expiration of the term  
5 of office of any member or alternate member, or to fill a vacancy  
6 for the second, third, seventh, eighth, or alternate seventh member  
7 of a board of retirement, and only one candidate has been duly  
8 nominated in accordance with the rules established for the holding  
9 of that election, the board of supervisors shall order that no election  
10 be held and shall direct the clerk to cast a unanimous ballot in  
11 favor of the candidate.

12 SEC. 7. Section 31523.1 is added to the Government Code, to  
13 read:

14 31523.1. (a) In the event of a vacancy in the second, third,  
15 fourth, or eighth member position on a board of investments  
16 established pursuant to Section 31520.2, an election shall be called  
17 ~~at the earliest possible date~~ *within 90 days of the date the vacancy*  
18 *occurs* to fill the vacancy. The vacancy in the second, third, fourth,  
19 or eighth member position shall be filled for the duration of the  
20 current term except that, if the remaining portion of the current  
21 term on the date of the election is six months or less, concurrent  
22 elections may be held to fill the vacancy for the remainder of the  
23 current term and to fill the position for the succeeding term.

24 (b) If an election has been called on the expiration of the term  
25 of office of any member, or to fill a vacancy for the second, third,  
26 fourth, or eighth member position of a board of investments, and  
27 only one candidate has been duly nominated in accordance with  
28 the rules established for the holding of that election, the board of  
29 supervisors shall order that no election be held and shall direct the  
30 clerk to cast a unanimous ballot in favor of the candidate.